

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida Public Utilities Company, Florida Division of Chesapeake Utilities Corporation, Florida Public Utilities Company - Fort Meade, and Florida Public Utilities Company - Indiantown Division.

DOCKET NO. 20220067-GU

FILED: August 18, 2022

CITIZENS' MOTION TO INCREASE THE DISCOVERY LIMITS ESTABLISHED BY ORDER NO. PSC 2022-0222-PCO-GU

The Citizens of the State of Florida (Citizens), by and through the Office of Public Counsel (OPC), pursuant to Rule 28-106.204, Florida Administrative Code (F.A.C.), hereby file their Motion to Increase the Discovery Limits Established by Order No. PSC 2022-0222-PCO-EI, issued June 17, 2022, in the above docket. The Citizens request that this Motion be granted for good cause, and as grounds state the following:

1. On March 24, 2022, Florida Public Utilities Company-Gas Division, Florida Public Utilities Company-Fort Meade, Florida Public Utilities Company-Indiantown Division, and Florida Division of Chesapeake Utilities Corporation (hereafter "FPUC" or "Company") filed a Test Year Notification Letter pursuant to Rule 25-7.140, F.A.C., thereby providing the Public Service Commission ("Commission") with notice that the Company intended to seek general rate relief pursuant to section 366.06(3), Florida Statutes, and to consolidate rates and rate structure for all four business units.
2. On 5/27/2022, OPC's Notice of Intervention was acknowledged.
3. On May 24, 2022, FPUC filed its MFRs, testimonies with exhibits, depreciation study, requests for consolidation and request for interim relief. In this docket, FPUC has requested approval to increase the Company's rates and charges to generate an additional gross annual

revenues in the amount of \$24,061,982 million. In addition to usual base rate issues, FPUC has filed a depreciation study and is seeking to consolidate its four gas divisions as well as move its Gas Reliability and Infrastructure Program (“GRIP”) from a surcharge into base rates. There is a vast amount of information which must be analyzed in this case

4. An Order Establishing Procedure was issued June 17, 2022. By Order No. PSC 2022-0222-PCO-GU, the Commission directed that the following discovery request limits apply, unless subsequently modified by the Prehearing Officer: Interrogatories and requests for Production of Documents (PODs), including all subparts, are limited to 300, and requests for admissions, including all subparts are limited to 200.

5. On July 22, 2022, Citizens served its Third Set of Interrogatories (Nos. 123-148). In its response, on pages 2 and 4, FPUC objects to further discovery because FPUC claims the interrogatories contain multiple requests encapsulated in one interrogatory and, thus, exceed the initial 300 interrogatory limit including subparts set in the OEP. In a phone call, FPUC’s counsel stated the Company’s belief that the total number of interrogatories is approaching 369. While it is the Company’s belief that multiple questions are contained in a single interrogatory, many interrogatories merely contain a request for more detail broken down by separately lettering. As is conventional Commission practice for asking interrogatories, many interrogatories break out the information to be included in the response and ask for an explanation of the information whether affirmative or negative in contrast to subpart questions (delineated information). This practice helps to clarify very complicated and multi-layered information. *See, e.g., In re: Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.*, Docket No. 080121-WS, Order No. PSC-08-0536-PCO-

WS, 2008 Fla. PUC LEXIS 290 at *5-*6 (F.P.S.C. Aug. 18, 2008) (noting that staff does not treat every compound interrogatory as having subpart(s) and considers the nature of the question when counting such as questions asking for multiple years of expense information, explanation of multiple adjustments to test year revenue, or multiple adjustments to a test year expense). Since the interrogatories served may be reaching the 300 interrogatory limit, OPC will accept FPUC's estimate of 369 including subparts for purposes of our request for additional interrogatories.

6. Based on FPUC's count, Citizens will have reached the interrogatory limit of 300 before completing the inquiries required to protect the public interest in this litigation. These required inquiries, in fact, are not harassing, immaterial, irrelevant, and are calculated to lead to discovery of admissible evidence.

7. Furthermore, Citizens expect to send additional discovery related to the Rebuttal Testimonies since there is a 15 day turn around period.

8. Citizens request an additional 200 interrogatories in this docket.

9. In the last Florida City Gas (FCG) base rate case in Docket No. 20170179-GU, OPC issued 187 interrogatories and 156 PODs without counting the subparts and/or delineated information. In the last Peoples Gas base rate case in Docket No. 20200051-GU, OPC issued 165 interrogatories and 52 PODs without counting the subparts and/or delineated information. If a similar count was employed in FCG and Peoples Gas dockets as FPUC is using herein, it is likely that the 300 interrogatory limit would have needed to be increased. Moreover, these other gas base rate case dockets involved single companies, whereas herein FPUC is essentially four separate entities consolidating to become a single entity.

10. Logically, OPC and staff should have 300 interrogatories and PODs for each separate entity, but OPC is only requesting an additional 200 interrogatories. As of this date, OPC has

served 62 PODs and no admissions and therefore does not appear to need additional PODs or admissions at this time.

11. The Citizens' motion will help conserve scarce Commission time and resources during the hearing because the ability to obtain answers to some questions via interrogatory may help streamline the hearing process.

12. Citizens contacted the parties. The counsel for FPUC objects to the Motion. Staff counsel takes no position.

WHEREFORE, the Citizens hereby request that the Commission grant its Motion to Increase Discovery Requests.

Respectfully Submitted

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CERTIFICATE OF SERVICE
DOCKET NO. 20220067-GU

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by electronic mail on this 18th day of August, 2022, to the following:

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